THE LEGAL HITCH IN THE CASE.

Counsel for the Defence Objects to the Motion.

He Claims that if the Petit Jury Was Megally Empanelled So Was the Grand Jury.

If the Judge Sustains the Prosecution the Prisoner's Discharge Will be Claimed.

JUDGE FISHER RESERVES HIS DECISION.

The trial of John H. Surratt, indicted for the murder of the late President Lincoln, was resumed in the Criminal Court this morning, Judge Fisher presiding. The crowd in attendance was again very large. Among those in attendance in the court room, at an early hour, were three or four ladies. These latter, however, soon

names of the jurors were called.

Mr. Bradley, Sr., said he did not suppose it necessary to await the arrival of the prisoner to argue the pending When the motion was submitted upon the the panel the defence were surprised; for it was the arst time such a motion had been made in this Court. cular form of motion did not then attract the attention of counsel, but upon looking at it since it appears entirely novel, and no precedent can be found for it in either English or American practice. The object of the motion should be to present or not the jury were properly summoned and empanelled, and it must, therefore, state facts, and not ons of law. He would read the motion and point out its defects. Mr. Bradley read the motion as filed, facts upon which the prosecution relied set out; for the Court must pass upon the facts. He had looked carelents in this country, and from them he concluded the facts upon which the prosecution rely must be et out in the motion, and cannot be supplied by affidavit only. He had no objection to the prosecution compresent shape it was not admissible to the Court. In support of his position Mr. Bradley quoted from the first volume of Archibald's Criminal Practice, pages 545 and 647. While Mr. Bradley was speaking the prisoner was

While Mr. Bradley was speaking the prisoner was brought in and assigned a seat near his counsel.

Mr. Pierreport, for the prosecution, conceded that the question for the Court was one of fact, and the only question was how it was best to bring these facts before the Court. It was not necessary to set out all the evidence in order to raise a domurror. The mode of getting at the facts should be the mode usual in the Court, but he did not see the difference it could make whether the affidavit be pinned to this motion or not.

Mr. Bradley said he did not suggest that the affidavit should be pinned to the motion, but that it should be pinned to the motion itself; so that issue could be joined on facts stated.

Mr. Pierrepont remarked that it did not seem to him to make much difference how the facts were put in; for he admitted the Court was to decide upon the facts.

Mr. Wisson, Assistant District Altorney, read from Archibalo's Griminal Practice to show that in drawing the motion the form must set forth the matters of challenge with precision and ceruainty. It was for the Court to decide whether this had been done.

Mr. Bradley said if the prosecution would show how they could plead to the affidavit the defence would be relieved. It was to him a novel proceeding to aver that certain things were done contrary to law, when the facts were not set out in the motion.

The motion was then amended by incorporating the facts.

Mr. Bradley thereupon filed the following demurrer:—

United States us. John II. Surratt.—In the Oriminal Court of the District of Columbia.—And thereupon the detendant says the sademotion is bad in law and in substance; the facts stated do not constitute any ground in law for a challenge of the array.

of the array.

The prosecution joined in the demurrer.

Mr. Merrick proceeded to address the Court in opposition to the motion. He contended that if the motion were granted the same objection would apply to the Grand Jury that had found the bill of indictment against the accased; and if it applied to the Grand Jury the defence might deem it advisable to withdraw the plea of "not guitty," and plead specially to the indictment; and if it is motion now ponding prevails the presecution cannot resist a motion for the discharge of the prisoner. It is not material to the success of the prisoner that this motion should be opposed; for, if the motion prevails, the prisoner is at large. It is somewhat remarkable that this objection should be presented for the first time at this late day. If the assumption of the presecution was correct, then since motion prevails, the prisoner is at large. It is somewhat remarkable that this objection should be presented for the first time at this late day. If the assumption of the presecution was correct, then since the act of June, 1862, jurors have been drawn improperly, and the lists have always been prepared in the same manner in which this list was prepared. If this jury was illegally selected then the Court has been dealing very inconsiderately with the lives and the liberties of the people of this country. Since the year 1883, the year when his Henor Judge Fisher came upon the bench, one man has been hung under this system, and scores have been sentenced to the Fenkentiary; and the Court is now to be gratified with the intelligence that in all these acts of taking human life it was guity simply of kuiling a human being, and it all incarcerations in the Fenkentiary; it was guity of an unlawful and false impraonment. This view of the case presents facis for serious reflection; but he apprehended that no such result would follow from a just construction of the statute. Mr. Merrick then referred to the statute of June, 1862, and argued from it that the Registrar of Washington, the Clerk of Georgetown and the Clerk of the Lovy Court were severally to act independently in their selection of jurors to represent the territory of the district of which they were officers. They must select such men for jury duty as they deem best qualified, and each one of the officers knew best for himself who were best qualified for jurors in this special jurisdiction.

Mr. Pierrepont contended that it was a fact only for the judgment of the Court, and the facts may be brought forward one way as well as another.

Mr. Brailey insisted that it was a fact for trial.

Mr. Pierrepont contended that it was a fact only for the judgment of the Court, and the facts may be brought forward one way as well as another.

Mr. Brailey hiss stock that it was a fact only for the judgment of the Court himself and the Clerks of Georgetown and the Levy Court.

NEW YORK HERALD, WEDNESD.

In the description of the careet instance the description of the careet instance the careet in the careet in

Merrick in ravor of continuing the jury reminded him of the story of the Indian chief, who, being remonstrated with for the killing of his enomies, excused himself by answering, "Why, I have always done it." And so of the woman of the Sandwich islands, who, being informed by a missionary that her commission of adultery was contrary to Christian principles, exclaimed, "I've always done it ever since I was married." Of course the fact that wrong had heretofore been done in the selection of jurors was not a good reason why the illegality should be countenanced and continued. In conclusion Mr. Pierrepout said all history showed that civil society would protect tiself. God forbul that we should relapse into the darkness of military despotism. We only want a verdict with which the country will be satisfied.

Mr. Bradley said he knew of no case in which it had been his fortune to be engaged as counsel the decision of which he approached with a deeper interest than this case. The tempatation is great to be led away from the true question and to resist following the course pursued on the other side, and discussing not questions of law, but such questions as are calculated to have an influence upon the pottle mind. We are told that a jury is to be engaged as the path with the pottle mind. We are told that a jury is to be engaged last the world of the United States. Would it not be more proper to say one who is charged with being an accessory?

Mr. Herrepont said he had been misunderstood; he spake of the accused as one to be tried for murder, as found by the Grand Jury.

Mr. Bradley said he had been misunderstood; he spake of the accused as one to be tried for murder, as found by the Grand Jury.

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OLD EYES MADE NEW WITHOUT DOCTOR OR medicine. Sent pest-paid on receipt of 10c. Address Dr. E. B. Foote, 110 Lexington avenue, corner Twenty-eighth street, New York.

O ath st., in the Rear.—as chambermaid and assistant in a private family, by a competent, willing young woman; best of city reference from her last place. Call or address.

19 VANDAM ST., MRS. McKEON, BETWEEN VARICES and Macdougal—A respectable married woman as we

19 WEST 16TH ST.-A RESPECTABLE SCOTCE Protestant woman, as infants' nurse; understand the care of children; ne objection to the country.

29 WASHINGTON PLACE -A LADY OF EXPERIonce wishes the position of governess or bousekeepes
with a lady or family travelling or at home. Address or call

25 WILLOW PLACE, BROOKLYN.—A STEADY PRO
15 testant woman, without incumbrance, to take care of
an invalid lady or child and sew, or as chambermaid; will
be found faithful; wages no object; can be recommended
from her present place; can read, write and keep accounts.

rem her present place; can read, write and keep accounts.

26 WEST 36TH ST.—A LADY GIVING UP HOUSE.

26 keeping wishes to procure a situation for an excellent chamberm and and waitress, who has no objection to the country.

26 EAST TWENTY. SECOND STREET.—A CHOICE OF elegant Roome, en suite or singly, may be secured, with Beard. Frivate table if desired. Reference required.

27 KENT AV., IN THE STORE.—A YOUNG MARRIED with Beard woman, as wet nurse, in a respectable family; has good reference; will give out her own baby. Can be seen for three days.

27 MADISON AV.—AS NURSE AND SEAMSTRESS; can operate on Wheeler & Wilson's machine; or as maid to an old lady and acamstress; is a Protestant; wishes to go to the country. Address Seamstress. Best city reference.

20 (OLD NO.) WEST 41ST ST.—A LADT, GOING
10 to the country for the summer, desires a situation
for an excellent waitress and chambermaid, who has lived
with her nearly two years, and whom she can highly recommend. Call at her present employer's.
20 HESTER ST., FRONT ROOM, TOP FLOUR—A
21 respectable woman, to de general bousswork in a
small family, or kitchen work. Can be seen for two days.

SITUATIONS WANTED-FEMALES. 35 WEST 13TH ST., BETWEES STI, AND 6TH AVS.

36 CLINTON ST., NE AR STANTON, FIRST FLOOR— a respectable of cl to do plain housework in a small family, where she can have a home; good city reference given. Can be see for two days.

38 13TH Cf., BETWEEN 5TH AND 6TH AVS., SEC-oud door-An experienced woman, as cook; under-stands at kinds of cooking, pastry and baking; no objection to go , short distance in the country. Call for two days. 30 20TH ST.-A YOUNG WOMAN AS COMPETENT on a machine; understands dressmaking; can operate on a machine; no objection to do light chamberwork or wai

40 WEST 13TH ST., BETWEEN 5TH AND 6TH AVS.—
As cook in a first class gentleman's family, or head
cook in a hotel; understands all kinds of French and Euglish cooking, pastry and creams; has good reference.

41 WEST 25TH ST.—A THOROUGHLY COMPETENT cook; no objection to assist in washing, or going to the country; best of city references.

42 EAST 32D ST.—A RESPECTABLE YOUNG WO. housework in a small family, either city or country. Call for two days.

4O FRANKLIN ST.—A YOUNG GERMAN PERSON of good address, as lady's maid; fully capable to fit the situation; is a first class dressmaker, and can do machine sewing; no objection to take charge of children.

50 EAST 28TH ST.—A RESPECTABLE WIDOW WO-summer; has the best testimonials of character in the city; competent to do any work.

WEST 16TH ST., PRESENT EMPLOYER'S.—A colored girl as nu ree or lady's maid in family.

511 FRANKLIN ST.—A RESPECTABLE MARRIEI woman as wet nurse; has a fresh breast of milk her own baby only six weeks old.

52 ALLEN ST., ROOM 11.—A YOUNG GERMAN girl to do plain sewing or shirt making at home, or will go out by the day or week; references if required.

60 CLASSON AV., NEAR MYRTLE AV., BROOK-lyn.—A respectable young woman, as chambermald and seamstress; best of city reference. Apply for two days. 61 ST. MARK'S PLACE, BETWEEN 1ST AND 2D ava., basement door-An experienced cook, washer and ironer; thoroughly understands milk and butter. Call for two days at her late employers.

64 LEROY ST., THIRD FLOOR, FRONT ROOM NO. 20 A competent young girl as chambermald and waitres best city reference from her last place.

73 WATTS ST.-A LITTLE GIRL, ABOUT FIFTEEN years of age, to take care of a child and make hersel generally useful.

78 WEST 21TH ST.—A RESPECTABLE WOMAN, AS first rate cook; is a good baker; willing to assist with the washing and ironing in a small private family; good city reference. 79 EAST 25TH ST.—A MAN THOROUGHLY AC quainted with the china, glass and crockery trade Address for two days J. W. H., care of Kilpatrick.

83 3D ST., UP STAIRS.—A RESPECTABLE YOUNG woman as nurse and to do plain sewing. No objection to the country. 89 WEST 11TH ST.—AN AMERICAN WOMAN AS children's nurse; best of reference as to respectability and capability given. Can be seen for two days.

90 NEW CHANBERS ST., SECOND FLOOR, Call for two days. Call for two days.

Of CHARLES ST.—A SEAMSTRESS, BY THE DAY
or week in private families; understands all kinds of
family sewing, cutting, &c.; best reference if required. Call
for one week.

96 EAST 1174 ST., BETWEEN IST AND 2D AVS.—
As seamstress; understands plain dressmaking; can operate and willing to make herself generally useful; good reference given. Can be seen for two days. 99 EAST 4ffl ST., NEAR 2D AV., FIRST FLOOR, as wet nurse; fresh breast of mile; no objections to the country; hours from 9 o'clock to 4.

102 MULBERRY ST., NEAR NEW CANAL-A mily; is a good plain cook, a first rate washer and ironer; best city reference given.

103 WEST Sorth ST., BETWEEN 6TH AV. AND Broadway.—A young woman as first class chambermaid and laudress; has three years' reference from last place. No objection to the country.

1041 EAST 11TH ST., FIRST FLOOR.—A RESPECT-

106 STH AV., BELOW 9TH ST.—GOOD SERVANTS and German girls for city and country; to suit all.

109 WEST 15TH ST., IN THE REAR—AN ELDERLY woman as cook; a place where the work is light, in city or country; good reference given. Wages no object. 109 WEST 39TH ST., BETWEEN BROADWAY AND 7th av.—A respectable young woman as first class cook; can do all kinds of English and French cooking; has the best of reference. Call for two days.

WEST 30TH ST.-A RESPECTABLE WOMAN, AS good cook, washer and ironer; would do the housewerk in a small lamily. Call for two days. 111 MONROE ST .- A MARRIED WOMAN AS WET

reference given.

113 WEST 16TH ST., BETWEEN 6TH AND 7TH

ava.—A respectable young woman, as coat; would

ava. With the washing and froning. The best of city reference. Can be seen for two days it not eugaged.

116 WEST 20TH ST., BETWEEN 6TH AND 7TH

ava.—A respectable girl, as competent nurse and
scamstress; would go a short distance in the country; best
city reference. Can be seen for two days.

124 WEST 19TH ST., HETWEEN 6TH AND 7TH AND 1TH WEST 19TH ST., As cook and to assist with the washing and ironing; good city reference.

130 ATLANTIC ST., EROCKLYN, IN THE MIL-as child's nurse, with a family going to Europe, or would go to the country. References given. 130 ATLANTIC ST., CORNES HENRY, ROOM 17.—
A young get wishes to do general homsework in a private family, or as chambermaid. Can be seen for three

SITUATIONS WANTED-FEMALES. 132 WEST 18TH ST., BETWEEN 6TH AND 7TH
ava.—An experienced woman, as seamstress; can
do all kinds of family sewing; or would take care of growing children, or do light chamberwork if required; would
like to go the country. The best of city reference. Call for

192 19TH ST., BETWEEN 7TH AND STH AVS.—A respectable girl, as good inundress or chambermaid: good city reference; no objection to go in the country for the summer.

323 EAST 25TH ST., NEAR 1ST AV.—A GERMAN Protestant girl, to do chamberwork and waiting.

134 WEST 25TH ST., BETWEEN 6TH AND 7TH of an infant; three and a half year's reference from her last place. Can be seen for two days. 135 WEST 43D ST.—AS NURSE AND PLAIN seem at her present employer's.

136 (NEW NO.) EAST 12TH ST., IN BASEMENT.—A respectable young woman as first class cook; best city reference. Also a first class chambermaid or first class waitress; best of reference.

130 16TH ST., BETWEEN 3D AV. AND IRVING place—A respectable young girl, to do chamberwork and take care of children; has no objections to go to the country; good city reference. Call for two days.

142 BAST 15TH ST., REAR BUILDING—A GERMAN young person, of good address, as lady's maid: understands hardressing; first class dressmaker; no objection to the care of grown children. Apply for two days.

145 EAST 32D ST.—A YOUNG LADY, EMPLOY-ment either in a bakery or fancy store; is compe-tent for either. Call on or address S. Huges. 145 WEST 31ST., BETWEEN 6TH AND 7TH AVS.—J respectable young woman to do general housework best of city reference; no objection to go in the country.

146 3D AV.-A YOUNG GIRL TO MIND CHIL-149 EAST 38TH ST., SECOND FLOOR, BETWEEN wishes to take plain and fine washing; fluing and curtains done up equal to new; best of reference given.

151 CHRISTOPHER ST., CORNER OF WASHING-ton—A respectable young girl as chambermaid and wattress, in a private family; understands her business tho-roughly; can be well recommended from her last place. Call for two days. 156 STH AV., BETWEEN 17TH AND 15TH STS.—A willing to go a short distance in the country; has good city reference.

159 33D ST., NEAR 7TH AV.—A GERMAN WOMAN, is an excellent baker; no objection to a summer house for the season. Can be seen for two days.

159 WEST 19TH ST., FOURTH HOUSE FROM 7TH 1675 av.—A respectable Protestant woman, as cook; first rate washer and Iroher; good city reference. Uan be seen for two days. 160 STH AV., CORNER OF 18TH ST., OVER THE capable of cutting and fitting ladies' and children's dresses; is capable of cutting and fitting ladies' and children's dresses; can operate on Wheeler & Wilson's machine; has no objection to go a short distance in the country. Can be seen for

160 ORCHARD ST., FIRST FLOOR, BACK ROOM. A respectable girl, to do general housework in small family; has good city references. 161 EAST 11TH ST., NEAR AV. A, SECOND FLOOR, back room.—As first class laundress to a private family; has the best of reference; no objection to the country.

162 West bord st. Briwer ITH AND STH and a good sewer; or would do chamberwork and sewing no objection to the country; best of city reference. (all for wo days.

163 WEST 197H ST., WEAR 7TH AV.-A FIRST at Indies and children's dreases; would like to take work at 165 WEST 24TH ST., CORNER 7TH AV.—A SMART maid and waitress; is a first class sewer, and a good cook in the English style; best reference. Call for two days.

also a good cook.

172 ADAMS ST., BROOKLYN.—AN AMERICAN
widow, middle aged, of refinement and education,
accustomed to travelling and not sea-sick, would like an ensagement, with a lady going to Europe as nurse or compaulor; can give the higuest reference. Call on or address
fire, Smith, as above.

174 WEST 207H ST.—A RESPECTABLE WOMAN TO do general housework in a small family; country preferred; good reference given. 197 SPRING STREET—AN EXPERIENCED YOUNG juri, in a respectable private family, to do general housework. Bost of city reference given.

202 EAST 26TH ST.—A RESPECTABLE GIPL, AS to do plain sewing; no objection to the country. 202 EAST 47TH ST., BETWEEN 1ST AND 2D AVS. first floor,—A respectable girl, as nurse, and can take care of children from their birth, and is a good plain

207 EAST BROADWAY, NEAR CLINTON ST., third floor-An English widow woman, without en cumbrance, as housekeeper, age 30, or as nurse in a gentle man's family; would take care of an invalid. 208 WEST 320 ST.-A RESPECTABLE GIRL AS GOOK WASher and Ironer in a small private family, or aschamberm iid and waltress.

211 SAST 41ST ST., BETWEEN 2D AND 3D AVS.— A respeciable woman, as housekeeper, or would take care of a house while the family is in the country; best refer ence turnished. Call or address.

214 61H AV.. NEAR 14TH ST.—A COMPETENT last employer. Call for two days.

214 6fill AV., NEAR 14TH ST.—A COMPETENT PER-seamstress; has like very best testimontals. Call afor two days. 216 7TH AV., NEAR 28TH ST., IN THE STORE-furing neatly; family clothes earefully done.

221 WEST SOTH ST.—A SESPECTABLE GIRL, care of a baby; has no objection to go a short distance in the country, has good city reference. Can be seen for two days.

223 EAST 22D ST., BETWHEN 2D AND 3D AVS.—
ber businesa, as coak; is a good baker; would assist with
part of the washing; would go a short distance in the country; good city reference.

223 WEST MITH ST., BETWEEN 7TH AND SIH AVS.—
A respectable young girl as chamber maid and
waitness or nurse; best city reference; no objections to the

230 EAST 20 ST., BETWEEN 2D AND 3D AYS.—
A respectable young woman, as chambermaid or to
do general housework in a small private family; best city
wherence.

WEST 16TH ST.—A RESPECTABLE PROFEST-act girl, as nurse and seamstress; can take care of filld from its birth and bring it up by hand. Can give set-tiony reference.

SITUATIONS WANTED-FEMALES. 205 EAST 2D ST.—A FIRST CLASS OPERATO on Whosee & Wilson's sewing machine desires : few more engagements by the day or week, to go out to private families. N. B.—All kinds of family sewing done at residence.

245 BAST 39TH ST.—A YOUNG AMERICAN GIRL

248 WEST 16TH ST., IN THE REAR.—A RESPECTION table girl, to do general housework in a private family; has good city reference.

249 WEST 11TH ST., NEAR 4TH ST.—A YOUNG jection to going in the country. 251 WEST 25TH ST.—TWO RESPECTABLE GIRLS one as cook, washer and ironer; the other as chambermaid and waitress; best city reference; no objection to go to the country. Can be seen for two days.

251 7TH AV., NEAR 25TH ST.—A RESPECTABLE woman, to do chamberwork and waiting or chamberwork and sewing; best city references given.

252 WEST 16TH ST.—A GIRL TO GO OUT BY THE

261 IST AV., BETWEEN 15TH AND 16TH STS., TOP today girl, to do the general housework of a small private family; two years' reference from her last place.

286 BROOME ST.—A RESPECTABLE YOUNG girl, as chambermaid: is willing to assist with the washing and ironing; has good reference. Please ring the second bell.

303 EAST 29TH ST., COTTAGE HOUSE.—A superior waitress and parlor maid, with the best of city reference, wishes a situation in a private family or boarding house; takes charge of the silver and dining room; wages, \$10. Call or address.

220 EAST SIST ST.—A COMPETENT YOUNG TO man as scametress and to take care of children can dress hair and make herself generally useful. Call for wo days.

336 WEST SIST ST., BETWEEN STH AND STA AVE., mald, and plain sewer. Can be seen at her present employers, between the hours of 10 and 12 A. M., as above.

336 IST AV. CORNER OF 22D ST.—A RESPECTA three years' reference. Call for two days. 337 WEST 21ST ST., BETWEEN 8TH AND 978 ava.—Two respectable women; one as good cook an excellent baker, and to assist with the washing; the other as chambermaid and waitress; no objection to the country; eight years' city reference.

350 EAST 20TH ST., THIRD PLOOR, BETWEEN 18B and 2d ava.—A respectable young woman, as a first class laundress; one that understands all the first class futting; has got the best of city reference from her last place. Can be seen for two daya.

353 ITH AV., BETWEEN 31ST AND 32D STS., TOP do chamberwork or take care of children; no objection to the country; reference.

354 WEST 28TH ST.—A RESPECTABLE GIRL AS chambermaid and waitress or to take care of children; refers to her last employer.

365 WEST 26TH ST., TOP FLOOR, FRONT—A RE-the best city references. Can be seen for two days.

388 6TH AV., BETWEEN 23D AND 24TH 878.—
300 dre smaker would live a few more engagements to
go out by the day in families. Call for two days.

400 WEST 201H ST., NEAR 9TH AV.—A RESPEC-ing, or chamberwork and light waiting; no chiection to go in the country for the summer. Nine years' city reference from last place.

419 WEST 22D ST. BETWEEN 9TH AND 10TH AVS.—
A scamstress, who can cut and 21 and sew on a
machine: will go out by the day, week or month; would be
willing to assist in taking care of children for a family going
to the country for the summer.

430 WEST STH ST., BETWEEN 5TH AND 10TH and ara.—A Protestant young Iries gri, as chamber, and and waitrees or nurse and seamstress in a private family; willing to go to the country if desired; unexceptionable reference.